IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201 FAO-2638-2001 (O&M)

Date of decision: 21.12.2018

RAM MITI AND OTHERS ... Appellants

Versus

JASWANT SINGH AND ANOTHER ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Atul Gaur, Advocate for
Mr. Rohit Goswami, Advocate for the appellants.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Ram Gopal in a motor vehicular accident that took place on 18.03.2000.

The Tribunal has awarded compensation of Rs.2,93,800/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.2400/-
2. Multiplier	14
3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.2,68,800/-
5. Expenses on funeral	Rs.10,000/-
6. Loss of consortium	Rs.15,000/-

Counsel for the appellants has submitted that even if the appeal against driver has been dismissed, claim of the appellants for enhancement of compensation against registered owner of the offending vehicle still subsists and can be allowed. In support of his contention, he has relied upon judgment of Andhra Pradesh High Court **G. Aravind Kumar Vs. Md. Sadat Ali (died) and another, 2011 AAC 3153**. Further reference has been made to judgment of Rajasthan High Court **Ghanshyam Das Choudhary Vs. Manoj Kumar and ors., 2007(14) RCR (Civil) 267**.

To substantiate his plea with regard to enhancement of compensation, it is argued that claimants should be allowed benefit of addition in income for future prospects, appropriate multiplier and deduction in the given facts and circumstances of the case. Adequate compensation may be allowed under conventional heads.

The contention raised by counsel for the appellants that claim for enhancement of compensation can be decided on merits even if appeal against driver has been dismissed, gets supported from the judgments cited by counsel for the appellants.

Claimants shall be entitle to addition in income for future prospects @ 40%. As the deceased was 38 years old, admissible multiplier is 15. The application for compensation has been filed by the widow, three children and father of the deceased. Even if father of the deceased is not held to be dependent upon income of the deceased, deduction for personal expenses would be $1/4^{th}$ as claim application has been preferred by widow and three children as well. In this manner, loss of dependency is calculated at Rs.4,53,600/- [(2400 x 12 x 15) + (40% future prospects) – ($1/4^{th}$ deduction for personal expenses)].

Under conventional heads, claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

1. Loss of consortium to widow	Rs.40,000/-
2. Loss of estate	Rs.15,000/-
3. Funeral expenses	Rs.15,000/-

Total compensation is Rs.5,23,600/- and the additional amount is Rs.2,29,800/- (5,23,600 - 2,93,800), payable with interest @ 7.5% per annum from the date of petition till realization, to widow of the deceased, to be invested in fixed deposit for a period of three years.

For the foregoing reasons, the appeal is partly allowed in the aforesaid terms.

21.12.2018 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No